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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA

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8 TRUSTEES OF THE OPERATING  
9 ENGINEERS PENSION TRUST, *et al.*,

10 Plaintiffs,

11 v.

12 WESTERN EXPLOSIVES SYSTEMS  
13 COMPANY,

Defendant.

Case No. 2:18-cv-00805-JCM-GWF

**ORDER**

14 This matter is before the Court on Plaintiffs' Memorandum in Support of Fees and Costs  
15 Request re: Motion to Compel (ECF No. 13), filed on September 13, 2018 and Plaintiffs'  
16 Memorandum in Support of Fees and Costs Request re: Motion for Order to Show Cause (ECF  
17 No. 16), filed on October 25, 2018. To date, no party has filed an opposition and the time for  
18 response has now expired.

19 **BACKGROUND**

20 On August 13, 2018, Plaintiffs filed their motion to compel (ECF No. 10) and on  
21 September 10, 2018, the Court granted their motion. *See Order*, (ECF No. 12). The Court  
22 ordered Defendant Western Explosives Systems Company ("WESCO") to serve its answers to  
23 Plaintiff's First Set of Interrogatories and responses to Request for Production no later than  
24 September 24, 2018. Defendant WESCO failed to serve its answers and responses as ordered.  
25 The Court also granted Plaintiffs' request for an award of reasonable attorney's fees and costs  
26 incurred in filing its motion to compel and instructed Plaintiff to file a memorandum in support  
27 of fees and costs. *Id.* On September 13, 2018, Plaintiffs filed their memorandum in support of  
28 fees and costs, and on September 26, 2018, Plaintiffs filed their motion for order to show cause

1 (ECF No. 14). Defendant WESCO has not filed an opposition to either Plaintiffs' memorandum  
2 in support of fees and costs or motion for order to show cause. On October 17, 2018 the Court  
3 granted Plaintiffs' Motion for Order to Show Cause (ECF No. 15) and order Defendants to show  
4 cause, in writing why sanctions should not be imposed for failure to comply with this Court's  
5 Order. The Court further instructed Plaintiff to file another memorandum in support of fees and  
6 costs associated with bringing the motion for an order to show cause. *See Order*, (ECF No. 15).

### 7 **DISCUSSION**

8 The Supreme Court has held that reasonable attorney fees must "be calculated according  
9 to the prevailing market rates in the relevant community," considering the fees charged by  
10 "lawyers of reasonably comparable skill, experience, and reputation." *Blum v. Stenson*, 465 U.S.  
11 886, 895-96 n. 11, 104 S.Ct. 1541 (1984). Courts typically use a two-step process when  
12 determining fee awards. *Fischer v. SJB-P.D. Inc.*, 214 F.3d 1115, 1119 (9th Cir. 2000). First, the  
13 Court must calculate the lodestar amount "by taking the number of hours reasonably expended on  
14 the litigation and multiplying it by a reasonable hourly rate." *Id.* Furthermore, other factors should  
15 be taken into consideration such as special skill, experience of counsel, and the results obtained.  
16 *Morales v. City of San Rafael*, 96 F.3d 359, 364 n. 9 (9th Cir. 1996). "The party seeking an award  
17 of fees should submit evidence supporting the hours worked and rates claimed . . . [w]here the  
18 documentation of hours is inadequate, the district court may reduce the award accordingly."  
19 *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). Second, the Court "may adjust the lodestar, [only  
20 on rare and exceptional occasions], upward or downward using a multiplier based on factors not  
21 subsumed in the initial calculation of the lodestar." *Van Gerwen v. Guarantee Mut. Life Co.*, 214  
22 F.3d 1041, 1045 (9th Cir. 2000).

23 Plaintiffs' request attorney's fees in the amount of \$5,383.00<sup>1</sup> for time expended in the  
24 matter as well \$35.31 for costs related to the motion to compel, motion for order to show cause  
25 and preparation of the memorandums in support of fees and costs against WESCO for a total of  
26 \$5,418.31. The amount is based on work performed by Michael A. Urban, Esq., Nathan R. Ring,

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28 <sup>1</sup> This number represents the combined total of attorney's fees requested in both Plaintiffs' Memorandum in Support  
of Fees and Costs (ECF No. 13) and Plaintiffs' Memorandum in Support of Fees and Costs (ECF No. 15).

1 Esq. and at an hourly rate of \$360.00 and work performed by April Denni paralegal employed by  
2 Plaintiffs' counsel's office, at an hourly rate of \$110.00. After reviewing Plaintiffs' counsel's  
3 affidavits and itemized billing entries, the Court finds that \$5,418.31 for fees and costs to  
4 prepare Plaintiffs motions and memorandums is excessive. The Court finds the hours involved  
5 in preparing Plaintiffs motions and memorandums and labor related to such motions should take  
6 no more than 13.5 hours of attorney labor. Therefore, the Court will reduce Plaintiffs' attorney's  
7 fees request by \$648.00 to a total of \$4,735.00. As a result, the Court will award reasonable  
8 attorney's fees in the amount of \$4,735.00 and costs in the amount of \$35.31 for a total of  
9 \$4,770.31. Accordingly,

10 **IT IS HEREBY ORDERED** that Defendant WESCO shall pay Plaintiff \$4,770.31 in  
11 attorney's fees and costs.

12 **IT IS FURTHER ORDERED** that WESCO is to make the payment to Plaintiffs no later  
13 than **December 13, 2018** unless an objection is filed.

14 Dated this 14th day of November, 2018.

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GEORGE FOLEY, JR.  
18 UNITED STATES MAGISTRATE JUDGE  
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